



## TREATMENT PROGRAMS FOR DRUG-INVOLVED OFFENDERS

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### THE DRUG INTERVENTION PROGRAM:

- Is a separate court docket for drug-dependent defendants who could benefit from treatment ([CGS § 51-181b](#))
- Currently operates in Bridgeport, Danielson, and New Haven
- Allows judges, defense counsel, prosecutors, and probation officers to refer an offender to these courts
- Focuses on treatment and supervision over a 12 to 15 month period

### ISSUE

What programs are available in Connecticut for drug-involved offenders? (This report updates and expands OLR Report [2010-R-0451](#).)

### SUMMARY

Two different statutory programs allow judges to refer offenders to drug treatment.

Courts may refer someone charged with possessing drugs or drug paraphernalia to the pretrial drug education and community service program. After an evaluation, the court may suspend prosecution of an eligible defendant and assign him or her to a drug intervention or substance abuse treatment program. The court dismisses the charges against someone who successfully completes the program.

A separate statutory program allows courts to order offenders who are drug-dependent into treatment. The pretrial diversion aspect of the program covers all drug sale and possession crimes. The court suspends prosecution of a program participant and dismisses the charges if he or she successfully completes the program. For certain convicted offenders who were drug-dependent at the time of the crime, a court may suspend part or all of a prison sentence, impose probation, and order the Court Support Services Division (CSSD) to place the person in a treatment program as a condition of probation. If a person completes the program, complies with all conditions, and abstains from illegal drug use for two consecutive years, the court may modify the sentence or probation terms or terminate probation.

In addition to these programs, the law authorizes the chief court administrator to establish separate dockets for drug dependent defendants who could benefit from treatment ([CGS § 51-181b](#)). These “drug courts” or “drug intervention programs” currently operate in Bridgeport, Danielson, and New Haven (see sidebar).

Courts may also require an offender to receive substance abuse treatment as part of participation in other programs or as a condition of probation.

This report also summarizes several addiction services programs available to drug-involved offenders in the adult criminal justice system.

## **PRETRIAL DRUG EDUCATION AND COMMUNITY SERVICE PROGRAM**

The Department of Mental Health and Addition Services (DMHAS) runs the pretrial drug education and community service program for people charged with possessing drugs or drug paraphernalia. A person is generally ineligible for this program if he or she has already participated in it twice, but the judge may allow participation in the program a third time if the person shows good cause.

### ***Application, Evaluation, and Placement***

The court may approve a defendant’s application for the program after considering the prosecutor’s recommendations. Applicants pay a \$100 application fee and a nonrefundable \$150 evaluation fee. The court file is sealed to the public.

If the court grants an application, it must refer the person to:

1. the Judicial Branch’s Court Support Services Division (CSSD) to confirm the person’s eligibility;
2. DMHAS for evaluation and determination of an appropriate program, if it is the first or second time the application is granted; and
3. a state-licensed substance abuse treatment program for evaluation of an appropriate substance abuse treatment program, if it is the third time the application is granted. (The court may refer third-time applicants who are veterans to the state Department of Veterans Affairs or the U.S. Department of Veterans Affairs, as applicable.)

### ***Program Attributes***

As displayed in Table 1, the pretrial drug education and community service program must include (1) a 15-session drug education program, (2) a substance abuse treatment program with at least 15 sessions, and (3) community service. The court orders placement based on the offender’s evaluation and number of prior entries into the program.

**Table 1: Program Requirements Depending on Number of Entries Granted**

<i>Program</i>	<i>First-Time Entry</i>	<i>Second-Time Entry</i>	<i>Third-Time Entry</i>
Drug Education Program  or  Substance Abuse Treatment Program ( <i>State-licensed facility</i> )	15-session program  or  At least 15 sessions	15-session program  or  At least 15 sessions	Course of treatment ordered by the court based on the evaluation
and  CSSD's Community Service Program	and  Five days	and  15 days	and  30 days

Placement in the pretrial drug education and community service program cannot exceed one year.

Unless the fee is waived by the court due to an applicant's indigence, applicants pay a \$600 nonrefundable fee for the drug education program and a \$100 nonrefundable fee for the substance abuse treatment program, as well as associated costs.

Program participants agree to toll the statute of limitations, waive their right to a speedy trial, enter the program within 90 days of the court order unless the court grants a delay, and complete the program.

After completing the pretrial program, the person must accept placement in a treatment program that (1) is recommended by a DMHAS provider (or by the state or U.S. Department of Veterans Affairs, as applicable) or (2) has substantially similar or higher standards than a DMHAS provider if CSSD deems it appropriate.

### ***Program Completion***

The court must dismiss the charges against someone who has successfully completed the assigned program and applies for dismissal. For participants who do not apply for dismissal, the court may dismiss the charges on its own motion if the program was successfully completed. Upon a participant's motion and a showing of good cause, the court may extend the placement for a reasonable period to allow the participant to complete the program.

### ***Program Failure and Reinstatement Options***

A person can be reinstated to the pretrial drug education and community service program twice.

If a person does not successfully complete a program or is no longer amenable to treatment, the program provider must (1) certify this; (2) to the extent practicable, recommend whether placement in a drug education program or substance abuse treatment program would best serve the person's needs; and (3) indicate whether the current program referral was an initial referral or a reinstatement.

If a person requests reinstatement, CSSD verifies eligibility. If the court approves reinstatement, the person pays a nonrefundable fee of \$250 and any associated costs. Program fees may be waived if good cause is shown.

The court must unseal the file, enter a plea of not guilty, and place the case on the trial list if (1) CSSD informs the court and the court determines that the person is ineligible for reinstatement or (2) the program provider certifies that the person did not successfully complete the assigned program and was not reinstated ([CGS § 54-56i](#)).

### **TREATMENT INSTEAD OF PROSECUTION OR INCARCERATION**

Courts are authorized under a separate statutory program to order offenders who are drug- or alcohol-dependent into treatment instead of prosecution or incarceration ([CGS §§ 17a-692 to 17a-701](#)).

#### ***Pre-trial Diversion***

The pretrial diversion aspect of the program covers all drug sale and possession crimes ([CGS § 54-56i](#)). A person charged with (1) driving under the influence (DUI); (2) DUI under age 21; (3) DUI with a child passenger in any motor vehicle; (4) DUI when driving a school bus, student transportation vehicle, or other motor vehicle specially designated for carrying children, with or without a child passenger; (5) 2<sup>nd</sup> degree manslaughter or assault with a motor vehicle; or (6) a class A, B, or C felony is not eligible for suspended prosecution and treatment. In addition, anyone who was twice previously ordered treated under this program or under a program covered by earlier versions of this law is not eligible ([CGS § 17a-696](#), as amended by [PA 16-126](#)).

The court may waive these eligibility rules. [PA 16-55](#) (§ 9) prohibits the court from doing so for anyone who was driving a commercial motor vehicle (large truck or bus) or held a commercial driver's license or commercial driver's instruction permit

when charged with any of the following crimes: (1) DUI, (2) DUI under age 21, (3) 2<sup>nd</sup> degree assault with a motor vehicle, or (4) 2<sup>nd</sup> degree manslaughter with a motor vehicle.

***Treatment Evaluation.*** The court, on its own motion or that of the state's attorney or a person charged with or convicted (but not yet sentenced) of a crime, may order an examination to determine if the person is alcohol- or drug-dependent and eligible for treatment. A probation officer may also order the examination as part of a presentence investigation ([CGS § 17a-693](#)).

The law requires a clinical examiner appointed by the DMHAS commissioner to conduct the examination. The examiner must determine whether the person was alcohol- or drug-dependent at the time of the offense. If so, the examiner looks at the person's history and pattern of dependency and whether he or she needs and would benefit from treatment. The examiner must report recommendations to the court, CSSD, state's attorney, and defense counsel within 30 days of the date the examination was ordered ([CGS § 17a-694](#)).

An examiner's treatment recommendation must include provisions for placement, the type and length of treatment, and when space will be available in a treatment program. The date cannot be more than 45 days from the date of the examination report ([CGS § 17a-694](#)).

A "treatment program" is one operated by DMHAS or approved by the DMHAS or correction commissioner for treating alcohol- or drug-dependency. It does not include a program that provides only detoxification services ([CGS § 17a-691](#)).

***Suspended Prosecution.*** After the court receives the examination report, an accused person may make a motion for suspension of prosecution and an order of treatment. The court must hear the motion unless the person waives the opportunity for a hearing ([CGS § 17a-695](#)).

The court may suspend prosecution and order treatment for an eligible person if it finds that: (1) the person was alcohol- or drug-dependent at the time of the offense, (2) he or she needs and is likely to benefit from treatment, and (3) suspension of prosecution would advance the interest of justice.

Prosecution may be suspended for up to two years. During the suspension, the person is placed in CSSD custody for substance abuse treatment. The court or CSSD may require that he or she comply with certain conditions of probation and testing for alcohol or drugs.

Prosecution may not be suspended unless the accused acknowledges that he or she understands the consequences of being in the program; has given the victim notice of the proceedings; and the victim, if any, has had an opportunity to be heard on the motion to suspend prosecution. The accused must pay a \$25 administration fee unless indigent ([CGS § 17a-696](#)).

**Completion of Program.** Upon completing treatment, the person may be discharged by the treatment program's director. The director must notify CSSD at least seven days before the discharge date.

At any time before the end of the supervision period, CSSD may recommend to the court that the charge be dismissed if the person has completed treatment, complied with the conditions set by the court or CSSD, and abstained for one year from alcohol or drug use. At least one month before the end of the suspension period, CSSD must notify the court and submit a report on whether the person has completed treatment and complied with the other conditions of suspension. CSSD must also indicate whether it recommends dismissal of the charge.

If the court finds that the person is responding well to treatment or has completed treatment and has complied with the other conditions of suspension, it may dismiss the charges. If the court denies the motion and terminates the suspension, the state's attorney may proceed with the prosecution ([CGS § 17a-697](#)).

**Modification or Termination of Suspension.** The court may modify or terminate the conditions of the suspension if it finds that a person:

1. committed, or threatened to commit, a violent act at the treatment facility;
2. committed a serious rule violation;
3. repeatedly violated the program's rules, thereby inhibiting his or her ability to function in the program;
4. refused continually to participate or asked to be removed from the program;  
or
5. was unable to participate because of a medical or psychosocial condition not appropriately treated by the program.

The director has the burden of establishing the facts. If the court terminates the suspension, the person may be prosecuted.

If the person is discharged before completing treatment, the director must give CSSD four days notice. But the person can be discharged without four days notice, with the agreement of CSSD, if it is necessary to protect the health or safety of staff or other program participants.

If a person does not comply with the conditions, CSSD must notify the court and the court may terminate the suspension and proceed with prosecution after a hearing ([CGS § 17a-698](#)).

### ***Treatment Instead of Incarceration***

For certain offenders, a court can suspend part or all of a prison sentence, impose probation, and order CSSD to place the person in a treatment program as a condition of probation.

A person is ineligible if he or she is convicted of murder, attempted murder, kidnapping, 1<sup>st</sup> degree robbery, or a felony involving serious physical injury. A person previously treated under this program or an earlier version of this law is also ineligible. The court may order someone to treatment if there was a relationship between the dependency and the crime, and the convicted person:

1. was alcohol- or drug-dependent at the time of the crime,
2. needs and is likely to benefit from treatment, and
3. meets the criteria for sentencing to probation.

The court can consider any information about a person's alcohol or drug dependency, including an examination report made as part of the pretrial diversion program.

The court may require a probation officer to contact the program and, if the person is not in an inpatient program, the person at least once a week. Placement in the program must be no earlier than the date space is available as reported by the clinical examiner. The court can order immediate transfer to a program if space is available.

Time spent in a treatment program does not reduce any sentence that the court has suspended. Violation of any condition is considered a violation of probation ([CGS § 17a-699](#)).

***Completion of Treatment Program.*** The treatment program director must report to CSSD when someone completes the program and recommend whether the person should receive further treatment. CSSD must notify the court clerk when a person completes the program; complies with all conditions; and has abstained

from use of alcohol or illegal drugs, whichever is appropriate, for two consecutive years. CSSD may make recommendations to the court, including whether to modify the sentence or probation terms or terminate probation and release the person. After a hearing, the court may modify the sentence, probation terms, or terminate probation and release the person ([CGS § 17a-700](#)).

The court may modify the sentence or probation terms if it finds that a person has:

1. committed, or threatened to commit, a violent act at the treatment facility;
2. committed a serious rule violation;
3. repeatedly violated the program's rules, thereby inhibiting his or her ability to function in the program;
4. refused continually to participate or asked to be removed from the program;  
or
5. was unable to participate because of a medical or psychosocial condition not appropriately treated by the program.

The treatment program director has the burden of establishing the facts ([CGS § 17a-701](#)).

## DEPARTMENT OF CORRECTION ADDICTION SERVICES PROGRAMS

Table 2 summarizes addiction services programs available to drug-involved offenders in the adult criminal justice system. The table provides a brief description and the average duration of each program along with the session frequency and intensity.

**Table 2: Adult Criminal Justice Programs for Drug-Involved Offenders**

<i>Program Name</i>	<i>Program Description</i>	<i>Average Duration, Frequency, and Intensity</i>
Tier One - Addiction Services	Addiction Services Units offer a Tier I Reentry Program to meet the treatment needs of offenders reentering the community from a pre-sentence or direct admission facility. Using the evidenced-based curriculum, Beat the Streets, this program focuses on relapse and reintegration.	<ul style="list-style-type: none"> <li>• 1 month duration</li> <li>• 9 sessions (1.5 hrs. each)</li> <li>• Administered twice weekly</li> </ul>
Tier Two - Addiction Services	The Tier Two program is a 10-week intensive outpatient program with 30 curriculum sessions. Group sessions incorporate weekly fellowship meetings to lay the foundation of basic substance abuse information, promote personal identification with recovery, and motivate further treatment involvement. This program may also be held in Spanish for Spanish speaking offenders.	<ul style="list-style-type: none"> <li>• 3 months duration</li> <li>• 30 sessions (1.5 hrs. each)</li> <li>• Administered twice weekly</li> </ul>



Table 2 (continued)

<i>Program Name</i>	<i>Program Description</i>	<i>Average Duration, Frequency, and Intensity</i>
Tier Four - Addiction Services	The Tier 4 Addiction Services program is a modified therapeutic community. The program provides inmates with the opportunity to be involved in full-time substance treatment in a separate housing unit. Tier 4 treatment is intensive and includes curriculum, skill building and process groups, as well as community building and individual counseling. These residential programs are six-twelve months in length.	<ul style="list-style-type: none"> <li>• 4-6 months duration</li> <li>• 24 hours, 7 days a week</li> </ul>
Intensive Aftercare Program - Facility Addiction Services	Inpatient/intensive outpatient drug treatment	N/A
Technical Violators Program	The Addiction Services Unit - Time Out Program (ASU-TOP) provides substance abuse treatment for offenders returned to custody for non-compliance with the stipulations or conditions of their release from a DOC facility or both. ASU-TOP programming serves to reinforce the offender's foundation of substance abuse information, personal identification with recovery, and to motivate their continued use of formal and informal recovery support services when they return to the community. It uses two evidence-based; psycho-educational curriculum driven programs designed to help the offender identify the mechanisms which triggered their relapse into the use of alcohol or other drugs; enhance their recovery skills, and develop a plan for an on-going drug and crime free lifestyle.	<ul style="list-style-type: none"> <li>• 3 weeks duration</li> <li>• 15 sessions (1.5 hrs. each)</li> <li>• 5 times a week</li> </ul>
Methadone Treatment Program (MTP)	Open-ended weekly process group sessions held for offenders engaged in methadone-assisted treatment while incarcerated.	N/A
Outpatient Addiction Treatment	Outpatient/non-intensive drug treatment	N/A
A New Direction	An Addiction Services program to meet the needs of offenders at the direct admission facilities. Addiction Services units offer a short-term drug and alcohol education program using the evidence-based cognitive-behavioral treatment curriculum, "A New Direction" by Hazelden. This curriculum addresses criminal and addictive thinking based on real life experiences of incarcerated addicts.	<ul style="list-style-type: none"> <li>• 1 month duration</li> <li>• 9 sessions (1.5 hrs. each)</li> <li>• Administered twice weekly</li> </ul>

Table 2 (continued)

<i>Program Name</i>	<i>Program Description</i>	<i>Average Duration, Frequency, and Intensity</i>
Seven Challenges	The Seven Challenges program is designed to treat youthful offenders with substance abuse issues, to motivate a decision and a commitment to change and to support success in implementing the desired changes. The program simultaneously helps young people address their drug problems as well as their co-occurring life skill deficits, situational problems, and psychological problems.	<ul style="list-style-type: none"> <li>• 6 months duration</li> <li>• 48 sessions (1.5 hrs. each)</li> <li>• Administered 3 times a week</li> </ul>
DUI Home Confinement Program: Track One	This program consists of screening, assessment, and brief treatment (3 program sessions) in the Community Correctional Centers. Offenders in Track 1 are recommended for release to the DUI Home Confinement Program upon successful completion of the program and with approval of the Warden. Offenders in Track 1 may be assessed as needing a higher level of care, and may be referred to Track 2.	<ul style="list-style-type: none"> <li>• 10 days duration</li> <li>• 3 sessions (1.5 hrs. each)</li> <li>• Administered 1 to 2 times a week</li> </ul>
DUI Home Confinement Program: Track Two	Initial screening identifies offenders as low- to medium-risk based on criminal and substance abuse history. Offenders in Track 2 may be assigned immediately following screening, or following a denial for immediate release after Track 1 due to need for additional treatment.	<ul style="list-style-type: none"> <li>• 5 weeks duration</li> <li>• 14 (1.5 hrs. each)</li> <li>• Administered 1 to 2 times a week</li> </ul>
DUI Home Confinement Program: Track Three	Offenders eligible for home confinement but assessed as needing intensive substance abuse treatment beyond the DUI program and appropriate level of treatment, such as Tier 2 or 4. These offenders may still be eligible for DUI Home Confinement release upon successful program completion.	<ul style="list-style-type: none"> <li>• 3 months duration</li> <li>• 1 session (1.5 hrs.)</li> <li>• Administered 3 times a week</li> </ul>
DUI Home Confinement Program: Track Four	Offenders assessed as needing intensive treatment, having multiple risk factors, or otherwise assessed as inappropriate for DUI Home Confinement release.	<ul style="list-style-type: none"> <li>• 6 months</li> <li>• 1 session (1.5 hrs.)</li> <li>• Administered 3 times a week</li> </ul>

Source: Department of Correction

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